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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,050

06/29/2006

Susan Kay Hoiseth

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04/17/2008

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EXAMINER

SWARTZ, RODNEY P

ART UNIT

PAPER NUMBER

1645

MAIL DATE

DELIVERY MODE

04/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/585,050	Applicant(s) HOISETH ET AL.	
	Examiner Rodney P. Swartz, Ph.D.	Art Unit 1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 and 25-36 is/are allowed.
- 6) ☒ Claim(s) 8-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicants' Response to Office Action, received 21 December 2007, is acknowledged. Claims 7, 9, 10, 11, 13, 14, 16, 18, 19, 20, 21, 22, 3, 24, 34, and 36 have been amended.
2. Claims 1-36 are pending and under consideration.

Objections/Rejections Withdrawn

3. The objection to claim 22 is withdrawn in light of the amendment of the claim.
4. The objection to claim 23 is withdrawn in light of the amendment of the claim.
5. The rejection of claim 36 under 35 U.S.C. 112, second paragraph, for containing the trademark/trade name Triton, is withdrawn in light of the amendment of the claim.
6. The rejection of claim 7 under 35 U.S.C. 112, second paragraph, insufficient antecedent basis for the limitation "wherein the porin", is withdrawn in light of the amendment of the claim.
7. The rejection of claims 9-11, 13, 14, 16, and 18-24 under 35 U.S.C. 112, second paragraph, indefiniteness for "any of claim", is withdrawn in light of the amendment of the claims.
8. The rejection of claim 23 under 35 U.S.C. 112, second paragraph, insufficient antecedent basis for the limitation "wherein the integral membrane protein", is withdrawn in light of the amendment of the claim.
9. The rejection of claims 1-33, 35, and 36 under 35 U.S.C. 112, first paragraph, scope of enablement for any/all other zwitterionic agents or any/all other nonionic detergents, is withdrawn in light of applicants' arguments.
10. The rejection of claims 1-33, 35, and 36 under 35 U.S.C. 112, first paragraph, scope of enablement for any/all other doses of zwitterionic agents or any/all other doses of nonionic detergents, is withdrawn in light of applicants' arguments.

11. The rejection of claims 26-33 under 35 U.S.C. 112, second paragraph, indefiniteness for "exchanging", is withdrawn in light of applicants' arguments.

Rejections Maintained

12. The rejection of claim 12 under 35 U.S.C. 112, second paragraph, indefiniteness for "any of claim", is maintained because the indefiniteness remains.

13. The rejection of claims 8-14 under 35 U.S.C. 112, second paragraph, indefiniteness for "exchanging", is maintained.

Applicants argue that the claim language is definite because the listing of groups (i), (ii) and (iii) is a Markush selection, and therefore are not processes intended to be carried out simultaneously on the same sample.

The examiner has considered applicants' argument, but does not find it persuasive because the claim language has not "and" between steps (a) and (b), but at the end of step (b) "and" is recited. The placement of this word makes the claim read "A method.....comprising the steps of (a), (b), and "wherein the altering step....." Thus, the recitation at the end of the group is a further step, e.g., step (c). Thus, the indefiniteness remains.

Claim Rejections - 35 USC § 112

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As newly amended, claim 18 recites "The method of claims 17", indicating dependence from multiple claims, but only claim 17 is recited.

16. Claims 15-17 and 19-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are dependent from rejected claims.

Conclusion

17. Claims 8-24 are rejected.

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Wednesday from 9:00 AM to 7:30 PM EST. Thursday is the examiner's work at home day.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Shannon Foley, can be reached on (571)272-0898.

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The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rodney P. Swartz, Ph.D./

Primary Examiner, Art Unit 1645

April 18, 2008